

P.E.R.C. NO. 2002-17

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF UNION,

Respondent,

-and-

Docket No. CO-2001-314

UNION COUNTY CORRECTION OFFICERS
PBA LOCAL NO. 199,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies a motion for reconsideration of I.R. No. 2000-16 filed by the Union County Corrections Officers PBA Local No. 199. In that decision, a Commission designee denied the PBA's application for interim relief based on its unfair practice charge against the County of Union. The charge alleges that the employer unilaterally altered terms and conditions of employment by improperly excluding certain unit employees from the contractual shift and post bidding procedure. The Commission concludes that no extraordinary circumstances exist warranting reconsideration.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Appearances:

For the Respondent, Schenck, Price, Smith & King, LLP,
attorneys (Kathryn V. Hatfield, of counsel)

For the Charging Party, Loccke and Correia P.A., attorneys
(Michael A. Bukosky, of counsel)

DECISION

On June 29, 2001, Union County Correction Officers PBA Local No. 199 moved for reconsideration of I.R. No. 2001-16, 27 NJPER 273 (132098 2001). In that decision, a Commission designee denied the PBA's application for interim relief based on its unfair practice charge against the County of Union. The charge alleges that the employer unilaterally altered terms and conditions of employment by improperly excluding certain unit employees from the contractual shift and post bidding procedure.

The parties' collective negotiations agreement expired on December 31, 2000. They are involved in interest arbitration proceedings.

The County closed its "Old Jail," except for the third and fourth floors, and transferred most corrections officers to its other correctional facility. All posts were re-bid in accordance with the contract.

In conjunction with consolidating the jails, the County entered into an agreement with a drug offender rehabilitation service that requires the County to transport prisoners to and from the facility. The County assigned two corrections officers to the new transportation posts. Believing that the new transportation posts were exempted from the shift bidding process, the County did not seek bids for them.

The PBA requested by letter that the County negotiate any change in benefits and requested a return to the status quo regarding seniority-based post and shift bidding. The County did not respond to the PBA's request.

The PBA filed its charge and a request for interim relief. The charge addressed other positions, but the only issue before us involves the two transportation positions.

The PBA argued to the designee that during the pendency of interest arbitration proceedings, the County had to negotiate before making changes to the post and shift bidding process. The County responded that transportation posts have traditionally been considered administrative posts exempt from bidding. In addition, the County responded that it had a contractual right to assign employees to posts outside of the seniority bidding system temporarily.

The designee found that there is a dispute as to whether the transportation positions are administrative and therefore contractually exempt from the bidding procedure. He therefore concluded that the PBA had not established a likelihood of success with respect to whether those positions are subject to the seniority bidding system.

The designee also found that the parties dispute whether the transportation positions are contractually exempt from bidding because they are temporary. He therefore concluded that under State of New Jersey (Dept. of Human Services), P.E.R.C. No. 84-148, 10 NJPER 419 (¶15191 1984), a Complaint on the charge may not issue and interim relief is not warranted. This motion for reconsideration ensued.

Our role is limited to determining whether there are extraordinary circumstances warranting reconsideration of the designee's decision. N.J.A.C. 19:14-4.8. Based on our careful review of the parties' submissions, we conclude that such circumstances do not exist.

There have been no final assessments made of the employer's contractual defenses. The designee simply found that the employer's arguments were reasonable enough that he could not find that the PBA had a substantial likelihood of success on the merits of its unfair practice allegations.

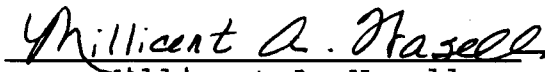
The PBA's reliance on East Brunswick Tp., P.E.R.C. No. 97-112, 23 NJPER 229 (¶28109 1997), is misplaced. That case

addressed the Complaint issuance standard. It did not address when it is appropriate to issue interim relief and does not provide a basis for granting reconsideration here.

ORDER

The motion for reconsideration of I.R. No. 2001-16 is denied.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Chair

Chair Wasell, Commissioners McGlynn, Muscato, Ricci and Sandman voted in favor of this decision. Commissioner Buchanan voted against this decision. Commissioner Madonna abstained from consideration.

DATED: September 26, 2001
Trenton, New Jersey
ISSUED: September 27, 2001